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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2014 OF 2007
IN
APPEAL NO. 9 OF 2007
IN
ADMIRALTY SUIT NO.19 OF 2006

Al-Gyas Exports Pvt. Ltd. .. Appellant

Versus

m.v. Banglar Gourab & Ors. .. Respondents

Mr. P.S. Pratap for Appellant.

Mr. D.C. Gomes with Mr. V.A. Ramabhadarn for Respondents.

CORAM: F.I. REBELLO &
J.P.DEVADHAR, JJ.
DATED: JULY 31, 2007

P.C.:

. By the present motion, the relief sought are that the appeal be restored and heard and finally disposed off in terms of the order of this court dated 7.12.2006. Considering the assignment of this court, and the heavy pendency of the admission matters of this assignment, it will not be possible to grant relief in terms of Prayer Clause (a).

. In so far as relief in terms of Prayer Clause (b) is concerned, the issue pertains to the jurisdiction of the court to try the suit. For that, an issue will have to be framed and decided as a preliminary issue. It is always open to the party to move under

Section 9A of the Code of Civil Procedure as amended in the State of Maharashtra to get that issue decided as preliminary issue. We have perused also the impugned order. What we find is that the court on the prima facie consideration has held that this court may not have jurisdiction. There is no finality in so far as findings are concerned.

. Considering the above, no case made out for grant of interim relief. Hence, motion rejected.

. The learned counsel further prays for extension of six weeks to file written statement. Such a plea really should be made to the Chamber Judge or the learned Judge hearing the matter,. However, to avoid multiplicity of proceedings, we are considering the request as the Respondent also have no objection. In our opinion, considering the rules framed on the O.S. side of this Court, time to file written statement extended by a further period of six weeks. Motion is accordingly disposed of.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**